

Technical Focus Group Meeting Notes
Tuesday, February 14, 2006

1. **Proposed Brownfields Legislation** - Darsi Foss reviewed Senator Carol Roessler's brownfields bill package, which has four brownfield-related provisions supported by the Brownfields Study Group. They are:
 - **Land Use Controls** - Wisconsin, like most states, allows "safe" levels of contamination to remain after cleanup if there are legal mechanisms to control use of the land. These mechanisms may require maintenance of remedial measures, such as caps to prevent direct contact with contaminants or to minimize the infiltration of precipitation. This bill proposes to continue these environmental remedies, but make them more cost-effective by eliminating reliance on deed restrictions, a cumbersome method to inform people about any limits on use of the property. The bill provides that at cleanups under the jurisdiction of Commerce, Natural Resources or Agriculture, Trade and Consumer Protection, land use controls will be the responsibility of the person who owns the property (the current land owner). The technical details of each land use control (e.g., maintenance requirements for an asphalt parking lot) will be made available to the public on the DNR's web site. This new system should accelerate the clean-up approval process, reduce transactional costs, and function as a more user-friendly and accessible method to inform the public.
 - **Voluntary Party Liability Exemption for Certain Solid Waste Facilities** - In 1994 the legislature enacted the voluntary party liability exemption (VPLE) to provide environmental liability protections to persons who clean up contaminated properties. This statutory provision exempts persons from further liability under the state's Spill Law for hazardous substance that they have cleaned up to DNR standards. Presently, there are over 50 properties where DNR has released the voluntary party from liability after the cleanup, and more that 130 additional properties that have entered this process. The bill would make some technical clarifications and expand the VPLE to cover certain types of disposal areas that would be considered "landfills." A person could receive VPLE protections under this amendment if the environmental contamination from an unlicensed landfill can be cleaned up so that no ongoing, active systems are required to maintain environmental standards.
 - **Local Government Liability Exemption for Certain Solid Waste Facilities** - The Land Recycling Law of 1994 includes an exemption from environmental liability for local governments that acquire a property with hazardous substance discharges under certain conditions. Those conditions include acquisition through involuntary means such as tax delinquency, bankruptcy, condemnation, or by slum or blight clearance methods. If the local government chooses to retain title to the property, it must ensure that no unacceptable health concerns are present when that property is put to its intended use. However, there are several thousand other properties where disposal of solid waste has occurred and many local governments are reluctant to take title to an unlicensed landfill due to long-term environmental liability and associated costs. This bill would exempt the local government from certain parts of the Solid Waste Law for involuntary acquisition of an unlicensed landfill. The local government would still be required to prevent unacceptable exposures to

contamination once the property was put to its intended use. It would also be required to maintain any existing monitoring or maintenance systems for the landfill.

- **Modifications to Environmental Remediation Tax Incremental Financing** - The Environmental Remediation Tax Incremental Finance Law (ER TIF) was approved by the Legislature in 1997 as a financial tool for political subdivisions to pay for specific environmental remediation expenses. This bill proposes some technical modifications to make environmental tax incremental districts (TIDs) more useable and more consistent with recent changes to the TID statutes. It would extend the ER TID time period from 16 years to 23 years and make cancellation of property taxes an eligible ER TID cost.
2. **Upcoming Ready for Reuse revolving loan fund** - Jessica Milz advised the group that we have completed the application forms for Wisconsin's new *Ready for Reuse* no-interest loan and grant program. The forms are on the Ready for Reuse web page, along with information about eligibility and funding priorities for the \$4 million, at http://www.dnr.state.wi.us/org/aw/rr/financial/epa_revolvingloan.html. Applicants need to be ready for environmental cleanup; site investigation expenses are not eligible under this program, and funds that are granted rather than loaned must be used within two years. DNR will review applications on a "first-come" basis, and loan repayments will replenish the fund for future loans. We expect to meet with potential applicants to discuss eligibility criteria and program requirements. We've also finished a fact sheet that covers the basics on this new source of funding.
 3. **Upcoming WI brownfields insurance program** – Michael Prager said that DNR and AIG are almost ready to announce this new state-sponsored environmental insurance program. The state will contract with AIG, which will administer the program. DNR will not be directly involved with the policies. Rather, DNR's technical review (i.e. of site investigation reports) will be a primary factor in issuing the insurance. Insurance policies will cover third party claims and discovery of unknown contamination. In order to get insurance, you would need to have Phase I and Phase II site assessments approved by DNR.
 4. **New form for Technical Assistance and Environmental Liability Clarification requests** – Darsi Foss advised that RR Program services are based on the "fee for service" model and our new, voluntary application form provides one-stop shopping for 20 different liability and technical services from the RR Program. It's designed to collect all the information that DNR will need to make its determination, and includes instructions. You can write in specific liability questions. In addition to liability clarifications, you may use the form to request technical responses such as written approval of an immediate response or a long-term monitoring plan. However, use of the form is entirely voluntary. The form is on the web at <http://www.dnr.state.wi.us/org/aw/rr/archives/pubs/4400-237.pdf>
 5. **The RR Sites Map** - Jane Lemcke updated the group that the RR Program has completed our new GIS application of sites in the LUST and ERP modules of our BRRTS database. Users can select whether to look at open or closed sites, or both. We

borrowed the format from our GIS Registry of Closed Remediation Sites. Each of our entries on the new RR Sites map links to more detailed information in BRRTS on the Web. Those starting a search in BRRTS on the Web can click onto the mapped location in the Sites Map from BRRTS on the Web. Since we are continually geo-locating new sites in BRRTS on the Web, users need to keep in mind that not all sites will appear on the map as soon as they are entered into BRRTS. Typically, we geo-locate sites after we receive the site investigation report. We've included a list of sites that are in BRRTS on the Web but not yet located on the RR Sites Map under "Download Data", and we are still improving some features. Our introductory page provides an explanation of what is included in this new GIS application, what we have planned for the future, instructions and frequently asked questions. <http://www.dnr.state.wi.us/org/aw/rr/gis/index.htm>

6. New DERF publications – Terry Evanson said that the RR Program has reviewed and consolidated all of its publications for the Dry Cleaner Environmental Response Program. Three new fact sheets are:
 - *Program Basics* (publication #RR-749) – a summary of DERF program eligibility, cleanup rules, funding, and rules for reimbursement,
 - *Bid Requirements* (publication #RR-750) – a summary of DERF bidding requirements under NR 169, Wis. Adm. Code, and
 - *Quality Based Selection (QBS) for Consultant Selection* (publication #RR-752) – a summary of how to use a qualification-based selection system for choosing environmental consultants.
 - The DERF *Reimbursement Application Instructions & Checklist* (publication #RR-751) has also been revised due to recent rule changes. Anyone applying for reimbursement of dry cleaner cleanup costs through the DERF Program should be using these new instructions. Please check the DERF web page for these materials - <http://www.dnr.state.wi.us/org/aw/rr/financial/dryclean.html>
7. Planned "cleanup" of the NR 700 rule series – Jane Lemcke reviewed the planned updates and corrections for the NR rules series. The "pink sheet" for rule amendments is on the web at http://dnr.wi.gov/org/aw/rr/wi_regs/pending_nr700_rule_changes.pdf. Jane will add additional information to the web on pending issues regarding these rule changes, for discussion at the next Technical Focus Group meeting.
8. Other topics
 - DNR was asked why DNR calls its letters "denial" letters when notifying responsible parties (RPs) that they need to submit a draft deed restriction in order to obtain case closure. DNR no longer sends "conditional closure" letters when a deed restriction is required. Instead, it uses a stepped approach in which DNR reviews the draft deed restriction to be sure that it is appropriate before it is recorded with the Register of Deeds. DNR will discuss the subject line designation that we use in these letters and bring a response back to the Technical Focus Group.
 - DNR was asked to modify NR 141, Groundwater Monitoring Well Requirements, in order to cover the common use of geoprobes to monitor groundwater contamination. The RR Program will forward this request to the Drinking and Groundwater Program.
 - The group had a discussion regarding sampling at the property line. When there is a question regarding on which side of the property line the contaminant source lies,

DNR requires the responsible party that it is already working with to make the determination. DNR would like the members of the Technical Focus Group to bring specific examples back to the next meeting to illustrate the issues involved.